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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,668	02/16/2001	Scott A. Laster	BIDP0005	5394

7590 07/27/2004

Patty Brown, Director of Finance
Bidpath Corporation
200 First Avenue West, Suite 105
Seattle, WA 98119

EXAMINER

NGUYEN, NGA B

ART UNIT PAPER NUMBER

3628

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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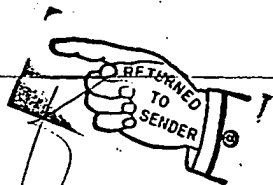
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Office Action Summary

Application No.

09/785,668

Applicant(s)

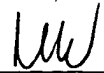
LASTER ET AL.

Examiner

Nga B. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Notice of References Cited	Application/Control No. 09/785,668	Applicant(s)/Patent Under Reexamination LASTER ET AL.	
	Examiner Nga B. Nguyen	Art Unit 3628	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,449,601	09-2002	Friedland et al.	705/37
	B	US-6,415,269	07-2002	Dinwoodie, David Lionel	705/37
	C	US-6,012,045	01-2000	Barzilai et al.	705/37
	D	US-5,890,138	03-1999	Godin et al.	705/26
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
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FOREIGN PATENT DOCUMENTS

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	N					
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NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

DETAILED ACTION

1. This Office Action is the answer to the communication filed on February 16, 2001, which paper has been placed of record in the file.
2. Claims 1-38 are pending in this application.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 7-10, 12-19, and 21-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Friedland et al, (hereinafter Friedland), U.S. Patent No. 6,449,601.

Regarding to claim 1, Friedland discloses a method for integrating online bidding over a communications network and onsite bidding at a location where an auction is being held, without requiring transmission of streaming video or audio data to online bidders from the location (column 8, lines 15-25, the remote bidders may also listen to the auction via the real-time audio broadcast or watch the auction via real-time video broadcast captures by one or more recording devices, because the remote bidders can the auction status and place bids over

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the Internet, thus without listening to the real-time audio broadcast or watching real-time video broadcast, the remote bidders still receive the status of the auction over the Internet and place bids, therefore, listening to the real-time audio broadcast or watching real-time video broadcast is optional and is not required to the remote bidders) comprising the steps of:

(a) providing a database that includes information about items being auctioned (figure 4 and column 8, lines 60-67; database 406 includes information related to lot inventories);

(b) enabling prospective bidders who are online to access the database over the communications network prior to entering a bid (column 12, lines 42-67; the client can access the lot inventories);

(c) communicating bidding information to and from: (i) bidders who are onsite at the location of the auction; and (ii) bidders who are online, over the communication network (figure 3; column 7, line 60-column 8, line 10; live audience bidder 302 submits bids to auction server 312; column 8, lines 28-50; remote bidders submits bids to auction server 312);

(d) enabling bidders who are online to transmit bids to the onsite auction over the communications network (column 8, lines 28-50; remote bidders submits bids to auction server 312);

(e) automatically determining a highest bid from among each bid transmitted over the communication network by bidders who are online (column 15, lines 1-7; determining the highest bid from remote bidders and audience bidders); and

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(g) determining a purchaser of an item being auctioned based upon a highest bid made by a bidder who is either onsite or online (column 13, lines 58-62; determining the client who submits the winning bid).

Regarding to claim 2, Friedland discloses wherein the bidding information includes at least one of an identification of the item currently being auctioned, an identification of any current highest bidder, an indication of any current highest bid amount, and an asking bid amount (figure 9; column 13, line 63-column 14, line 43).

Regarding to claim 3, Friedland discloses wherein bids submitted by bidders who are online each include a bid amount, and an identification of the bidder who is making the bid (column 14, line 59-column 15, line 20).

Regarding to claim 4, Friedland discloses displaying at the location of the auction the current highest bid and an identification of a highest bidder, who is either online or onsite (column 14, line 59-column 15, line 20).

Regarding to claim 5, Friedland discloses enabling pre-registration of bidders who are online (figure 5 and column 10, lines 13-61).

Regarding to claim 7, Friedland discloses wherein the step of communicating bidding information comprises the step of transmitting packetized data over the communication network (column 14, lines 46-58; transmitting over the Internet).

Regarding to claim 8, Friedland discloses further comprising the step of enabling bidders who are online to participate in one or more of a plurality of auctions occurring on different channels accessible over the communication

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network, each channel being associated with a different set of items to be auctioned (figure 6, items 606, 622 and column 11, lines 50-60).

Regarding to claim 9, Friedland discloses providing a plurality of auction administrative functions in software used to integrate online bidding and onsite bidding, said plurality of auction administrative functions including at least one of: (a) registering bidding participants in an auction; (b) providing invoicing statements identifying each item purchased by a successful bidder in one or more auctions, costs associated with the purchase of each item, any adjustment to the costs, and a total amount due; accumulating data regarding bidders and items sold at an auction; and (d) providing advertising that is displayed to bidders who are online (column 10, lines 13-61; registering bidding participants in an auction).

Regarding to claim 10, Friedland discloses providing a schedule of times at which the plurality of auctions are to be held to enable an online bidder to select a channel (figure 6, items 606, 622 and column 11, lines 50-60).

Regarding to claim 12, Friedland discloses a system for facilitating integral online and onsite bidding at an auction that does not require transmission of video or audio data to bidders who are online, comprising:

(a) an online server that is adapted to communicate data over a network, to and from online bidders and to and from a site of the auction, said server including a processor, and a memory that is coupled to the processor and in which is stored a database that includes information about items to be sold at the

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auction and a plurality of machine instructions (figure 3 and column 8, lines 10-15; The DLA auction server 312);

(b) said machine instructions (column 8, lines 55-62; the DLA auction server program), when executed processor to carry out a plurality of functions as described in claim 1 above.

Claims 13-16 have similar limitations found in claims 2-5 above, therefore are rejected by the same rationale.

Regarding to claim 17, Friedland discloses wherein the machine instructions cause the sever to assign an identification number to a bidder who is registered to bid online, thereby reducing an amount of data transmitted over the network when identifying an online bidder who is making a bid (column 15, lines 27-29).

Regarding to claim 18, Friedland discloses an onsite client computer that includes a local processor coupled to a local memory in which machine instructions are stored, and a display coupled to the local processor, said local processor executing the machine instructions stored in the local memory, causing the local processor to employ the display at the site of the auction to provide an indication of any current highest bid amount and an identification of any current highest bidder, who is either online or onsite (figure 3; column 6, line 60-column 8, line 10; column 21, line 65-column 22, line 8; computer system 308).

Regarding to claim 19, Friedland discloses wherein local processor transmits bidding information regarding the bids that are made onsite over the

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network to the server, which conveys the bidding information to the bidders who are online (column 21, line 65-column 22, line 8).

Regarding to claims 21-22, Friedland discloses wherein a plurality of actions are available online, each auction of the plurality of auction offering a different set of items, the machine instructions causing the processor to produce a schedule of the plurality of auctions, each auction in the schedule is referenced as a different channel (figure 6, items 606, 622 and column 12, line 65-column 13, line 14).

Regarding to claim 23, Friedland discloses wherein the database includes at least one of images, voice recordings, and textual data regarding items offered for auction, said machine instructions causing the serving to make contents of the auction available for access by prospective bidders (column 12, lines 60-65).

Regarding to claim 24, Friedland discloses wherein the machine instructions further cause the server to enable a user to modify and supplement the information included in the database (column 11, lines 3-7).

Regarding to claim 25, Friedland discloses a remote computing device coupled to the server over the network and used at a clerking station located at the auction (figure 3; column 6, line 60-column 8, line 10; column 21, line 65-column 22, line 8; computer system 308).

Regarding to claim 26, Friedland discloses a remote computing device coupled to the server over the network and used at a cashiering station, to carry out at least one of: entering and transmitting high bids by onsite bidders over the network to the online bidders, preparing invoices, printing the invoices, and

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recording data regarding collection of payments for items purchased by onsite bidders at an auction (column 21, line 65-column 22, line 8).

Claims 27-32 are written in computer software that have similar limitations found in claims 1, 10, 4, 9 above, therefore are rejected by the same rationale.

Regarding to claim 33, Friedland discloses wherein the machine instructions further cause the computing device to transmit bidding data for a plurality of bids over the network in a single packet (column 8, lines 43-50; the DLA auction server 312 transmits the auction status to the remote bidders).

Regarding to claim 34, Friedland discloses wherein the machine instructions further cause the computing device to transmit a plurality of highest bids submitted by all bidders to all online bidders in the auction (column 8, lines 39-50).

Regarding to claim 35, Friedland discloses wherein the machine instructions further cause the computing device to enable an online bidder to participate simultaneously in a plurality of onsite auctions over the network (figure 6, items 606, 622 and column 12, line 65-column 13, line 14).

Regarding to claim 36, Friedland discloses wherein each of the plurality of onsite auctions is included in a schedule of auction and is associated with a different channel (figure 6, items 606, 622).

Regarding to claim 37, Friedland discloses wherein the machine instructions further cause the computing device to enable an online bidder to select a time interval at which to automatically cycle between channels included

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in a plurality of different channels selected by the online bidder (figure 6, items 606, 622 and column 12, line 65-column 13, line 14).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6, 11, 20, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al, (hereinafter Friedland), U.S. Patent No. 6,449,601.

Regarding to claims 6, 20, Friedland discloses enabling bidders who are onsite to register a bid for an item electronically, an electronic signaling device that is provided to prospective bidders who are onsite, said electronic signaling device being associated with a bidder to whom it is provided and used to electronically register a bid made by said bidder by transmitting a signal indicative of a bid. However, enabling bidders to register a bid for an item electronically using an electronic signaling device (e.g. computer, telephone, etc) is well known in the art. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Friedland's to allow the onsite bidder to register a bid for an item electronically for the

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purpose of providing more convenient and accuracy for the onside bidders to submit bids to the auctioneer.

Regarding to claims 11, 38, Friedland does not disclose enabling an online bidder to participate in bidding on items at a plurality of different auctions that are being held at overlapping times, wherein the machine instruction enable an online bidder to selectively interrupt cycling between the different channels to remain on a specific channel of interest so that the online bidder can participate in bidding in an auction associated with the specific channel. However, enabling an online bidder to participate in bidding on items at a plurality of different auctions that are being held at overlapping times and allowing an online bidder to selectively interrupt cycling between the different channels to remain on a specific channel of interest is well known in the art of Internet auction. For example, an online bidder can simultaneously place bids for one item at different merchant websites, the item can have the overlapped schedule at different merchant websites, the bidder can cancel the bids submitted at the other merchants and remain the bid at a specific merchant of interest, thus by placing bids at different merchants, the bidder have the more chance to win the item he/she desired. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Friedland's to include the feature above for the purpose of maximizing the bidder's demand.

Conclusion

7. Claims 1-38 are rejected.

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8. The prior arts made of record and not relied upon is considered pertinent to applicant's disclosure:

Dinwoodie (US 6,415,269) discloses an interactive remote auction bidding system for conducting an auction among participants located at remote locations from the auction site utilizes a data input device for communication over a network to the auction site.

Bazilai et al. (US 6,012,045) disclose the computer-based method of selling consumer products and consumer services includes, in one embodiment, the utilization of a computer system, which maintains the electronic bid, auction and sales records, and a plurality of customer computers interconnected with the computer system via a telecommunications link.

Godin et al. (US 5,890,138) discloses an auction system is disclosed which allows users to participate using their own computers suitably connected to the auction system.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (703) 306-2901. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (703) 308-0505.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-1113.

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10. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

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Washington, DC 20231

Or faxed to:

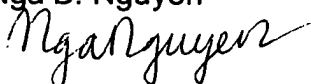
(703) 872-9326 (for formal communication intended for
entry),

or

(703) 308-3691 (for informal or draft communication,
please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park 5, 2451
Crystal Drive, Arlington, VA, Seventh Floor (Receptionist).

Nga B. Nguyen



July 20, 2004